

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION**

ROBERT STANTON,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO: 3:20-cv-36
)	
MEDXCEL FACILITIES)	
MANAGEMENT, LLC,)	
)	
Defendant.)	

COMPLAINT AND DEMAND FOR JURY TRIAL

I. NATURE OF THE CASE

1. This is an action brought by Plaintiff, Robert Stanton (“Stanton”), by counsel, against Defendant, Medxcel Facilities Management, LLC (“Defendant”), pursuant to the Age Discrimination in Employment Act (“ADEA”), as amended, 29 U.S.C. §§ 621 et. seq.

II. PARTIES

2. Stanton is a citizen of the United States, the State of Indiana and, at all times relevant to this litigation, resided in Warrick County, State of Indiana, which is within the geographical boundaries of the Southern District of Indiana.

3. Defendant is a Domestic Limited Liability Corporation, which maintains offices and conducts operations in within the Southern District of Indiana.

III. JURISDICTION AND VENUE

4. Jurisdiction is conferred on this Court over the subject matter of this litigation pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 626.

5. Defendant is an “employer” as that term is defined by 29 U.S.C. § 630(b).

6. At all times relevant to this action, Stanton was an “employee” as that term is defined by 29 U.S.C. § 630(f).

7. Stanton exhausted his administrative remedies by timely filing a Charge of Discrimination against Defendant with the Equal Employment Opportunity Commission claiming discrimination based on age. Stanton has filed his Complaint within ninety (90) days of receipt of his Notice of Suit Rights.

8. A substantial portion of the events, transactions, and occurrences concerning this case have arisen in the geographical environs of the Southern District of Indiana, thus venue is proper in this Court.

IV. FACTUAL ALLEGATIONS

9. The Defendant provides landscaping and grounds maintenance for St. Vincent/Ascension Hospital for all of its facilities in Evansville, Indiana. Stanton, who is 60 years old, was hired by St. Mary’s Hospital (St. Vincent/Ascension’s predecessor) on or about October 8, 2008. The Defendant took over landscaping and grounds maintenance on or about January 1, 2015.

10. Stanton held the position of Supervisor upon his termination on or about June 4, 2019.

11. At all times relevant to this action, Stanton met or exceeded Defendant’s legitimate performance expectations.

12. When Vincent Billafana (“Billafana”), who is believed to be about thirty-five (35) years of age, became Stanton’s supervisor. Billafana began asking Stanton when he was going to retire and when he planned on leaving his employment with the Defendant.

13. Billafana wanted to replace Stanton with a younger employee and began creating reasons to counsel and/or discipline Stanton.

14. In fact, one of Stanton's subordinates, Matt Hitchcock ("Hitchcock"), who is believed to be about thirty-five (35) years of age, became insubordinate with Stanton and put in his resignation by going around Stanton and calling Billafana directly.

15. On or about June 4, 2019, Stanton was terminated for alleged insubordination. The Defendant's Human Resources Manager, Julie Stoling, called Stanton and told him he needed to resign or be fired. Stanton refused to resign and was terminated.

16. Next, the Defendant talked Hitchcock out of resigning and made him temporary Supervisor – performing Stanton's position. Eventually, Hitchcock was permanently made Supervisor.

17. Stanton was terminated based on his age in violation of the ADEA.

V. LEGAL ALLEGATIONS

COUNT I – AGE DISCRIMINATION

18. Stanton hereby incorporates paragraphs one (1) through seventeen (17) of his Complaint.

19. Defendant has willfully and intentionally, with malice and/or reckless disregard for Stanton's rights, engaged in unlawful and discriminatory employment practices by terminating Stanton's employment based on his age in violation of the Age Discrimination in Employment Act (ADEA), as amended, 29 U.S.C. §§ 621 et. seq.

20. Stanton has suffered and continues to suffer harm as a result of Defendant's unlawful actions.

REQUESTED RELIEF

WHEREFORE, Plaintiff, Robert Stanton, by counsel, respectfully requests that this Court find for Plaintiff and order Defendant to:

1. Reinstatement Plaintiff to the position, salary and seniority level he would have enjoyed but for Defendant's unlawful employment actions, or award him front pay and the value of concomitant benefits in lieu thereof;
2. Pay to Plaintiff all of his lost wages and benefits;
3. Pay to Plaintiff compensatory damages, damages for physical, mental and emotional distress and payment of uncovered medical bills and/or insurance premiums;
4. Pay to Plaintiff liquidated damages and/or punitive damages;
5. Pay to Plaintiff pre- and post-judgment interest;
6. Pay Plaintiff's costs and attorney fees incurred in litigating this action; and,
7. Provide any further equitable relief this Court sees fit to grant.

Respectfully submitted,

s/Kyle F. Biesecker

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DEMAND FOR JURY TRIAL

Plaintiff, Robert Stanton, by counsel, respectfully requests a jury trial for all issues deemed triable by jury.

Respectfully submitted,

s/Kyle F. Biesecker

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